IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 528 of 2003 (S/B)

V.K. Chaudhary s/o Chaudhary Prem Shankar,
R/o Government Industrial Training Institute
Campus, Rampur Road, Haldwani,
District Nainital ... Petitioner

Versus

1. State of Uttaranchal
through Chief Secretary,
Labour & Employment,
Uttaranchal Sashan,
Dehradun.

2. Chief Secretary, Labour & employment,
Uttaranchal Sashan, Dehradun.

3. Director, Training & Employment,
Uttaranchal, Haldwani, Nainital ... Respondents

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Mr. M.C. Kandpal, Senior Advocate, counsel for the petitioner.
Mr. K.P. Upadhyaya, Standing Counsel for the State of Uttaranchal.

JUDGMENT

Coram: Hon. Cyriac Joseph, C.J.
Hon. P.C. Pant, J.

CYRIAC JOSEPH, C.J.(Oral)

1. The petitioner is the Assistant Director (Training), Directorate of Training and Employment at Haldwani. He was posted in the present post by an order dated 09.07.2005 of the Secretary, Labour and Employment. Prior to that, he was working as Principal, Government Industrial Training Institute (Boys), Haldwani from the year 1998. Thus he has been working at Haldwani for the last seven years.

2. The petitioner filed this writ petition challenging Annexure 2 order dated 26.09.2003 passed by the second respondent – Principal Secretary, Labour and Employment, Government of Uttaranchal – transferring him to the post of Principal, Industrial Training Institute, Duggada. According to the petitioner, he was transferred to scuttle an

enquiry being conducted by him into certain irregularities committed by the Principals of some of the Government Industrial Training Institutes and to save the guilty officers. While admitting the writ petition on 15.11.2003, this Court passed an interim order staying the impugned transfer of the petitioner until further orders and directed the second respondent himself to file a counter affidavit.

3. The second respondent has filed a counter affidavit denying the allegations in the writ petition and defending the transfer of the petitioner. According to the averments in the counter affidavit, the then Director, Training and Employment, Uttaranchal had directed the petitioner to verify the purchase of Tools and Instruments by the Principals of the Industrial Training Institutes at Tanakpur, Kashipur, Barkot, Dineshpur and Pirankaliyar. The said verification is described as enquiry by the petitioner in the writ petition. The petitioner submitted his Enquiry/Verification Reports on 17.05.2003, 14.05.2003, 17.05.2003, 17.05.2003, 17.05.2003, 08.05.2003, 07.05.2003 and 07.05.2003 respectively. The petitioner had not reported any irregularity in the purchase of Tools and Instruments by the Principals of those Industrial Training Institutes. Since the petitioner had already carried out the Enquiry/Verification and had submitted his reports without pointing out any irregularity, it is baseless to allege that the impugned transfer order dated 26.09.2003 was issued to scuttle the enquiry and to save the guilty officers. It is also stated in the counter affidavit that the transfer of the petitioner was ordered on administrative grounds. It is pointed that, apart from the petitioner, 11 Principals of the Industrial Training Institutes also were transferred on 26.09.2003. According to the second respondent, all the transfers were ordered in public interest. It is further stated in the counter affidavit that the Government vide Order dated 25.09.2003, appointed Sri Girja Shankar Joshi, Director, Training and Employment as Enquiry Officer to conduct an enquiry into the allegations regarding the purchase of Tools and Instruments for the Industrial Training Institutes. On 26.09.2003, the Government also transferred all the Principals concerned from the respective Industrial Training Institutes with a view to facilitate a fair enquiry. The Director completed the enquiry and submitted a Preliminary Report which has

been produced as Annexure C.A.-4/1. It is also stated that on receipt of the report of the Technical Inspection carried out, the Director would be submitted his Final Report and based on such Final Report, appropriate administrative action would be taken by the Government. It is submitted by the learned counsel for the petitioner and admitted by the learned Standing Counsel that the Director, Training and Employment submitted his Final Report and on the basis of the Final Report, action has been initiated against the guilty officers and charge-sheets have been served on them.

4. In the above circumstances, we do not find any merit in the contention of the petitioner that the impugned transfer was made to scuttle the enquiry into the irregularities in purchasing Tools and Instruments for the Industrial Training Institutes and to save the guilty officers. As already observed, even before the transfer was ordered, the petitioner had completed the Enquiry/Verification and submitted his report without pointing out any irregularity or misconduct. Nothing further was done by the petitioner. The Further enquiry was conducted by the Director of Training and Employment. The continuance of the petitioner at Haldwani could not have in any way interfered with the enquiry conducted by the Director. Hence, there is no logic in arguing that the petitioner's transfer was to scuttle the enquiry and to save the guilty officers. The allegation is totally baseless.

5. The petitioner has also complained that the impugned transfer was made in the middle of the year. There is no Rule which prohibits transfer of a Government servant on administrative grounds in the middle of the year or academic session. As already mentioned, the petitioner was not singled out for transfer in the middle of the year. He was one of the 12 officers transferred on administrative grounds and in public interest. Obviously, the transfer of the eleven Principals of the Industrial Training Institutes for facilitating a fair enquiry by the Director, necessitated transfer of the petitioner.

6. Hence we do not find any merit in the writ petition and the writ petition is liable to be dismissed.

7. Learned counsel for the petitioner submitted that the petitioner has got a son studying in Class XII and, therefore, he may be allowed to continue at Haldwani till the end of March, 2006. Learned counsel requested that, notwithstanding the dismissal of the writ petition, the transfer of the petitioner may be kept in abeyance till the end of March 2006. In our view, such a request can be considered only by the Government. If a representation is made by the petitioner in that regard, we have no reason to assume that the Government will not consider the request sympathetically and in accordance with law.

8. Hence, the writ petition is dismissed. The stay order passed on 15.11.2003 is vacated. The Government is free either to implement Annexure 2 order or to pass fresh orders transferring the petitioner to any other place. It will be open to the petitioner to make a representation to the Government requesting to allow him to continue at Haldwani till the end of March 2006. If such a representation is made, the Government may consider the request in accordance with law.

(P.C. Pant, J.) **(Cyriac Joseph, C.J.)**

Dt. 25.10.2005
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